

# BUSINESS OF CREDIT INSTITUTIONS LAWS OF 1997 TO (NO. 3) 2013

## Directive based on section 41

66(l) of 1997  
74(l) of 1999  
94(l) of 2000  
119(l) of 2003  
4(l) of 2004  
151(l) of 2004  
231(l) of 2004  
235(l) of 2004  
20(l) of 2005  
80(l) of 2008  
100(l) of 2009  
123(l) of 2009  
27(l) of 2011  
104(l) of 2011  
107(l) of 2012  
14(l) of 2013  
87(l) of 2013  
102(l) of 2013.

The Central Bank of Cyprus, by virtue of the powers vested on it by subsections (1) and (2) of section 41 of the Business of Credit Institutions Laws of 1997 to (No. 3) 2013, issues this Directive.

### **PART I - GENERAL PROVISIONS**

- Title. 1. This Directive will be referred to as "Directive on Arrears Management of 2013".
- Scope of application. 2. The provisions of this Directive are applicable to all credit institutions which possess a license by the Central Bank of Cyprus, in accordance with section 4(1) of the Business of Credit Institutions Laws of 1997 to (No. 3) 2013, and to all branches of credit institutions of other member states operating in the Republic, in accordance with section 10A of the said Laws, unless corresponding provisions have been enacted in the regulatory framework by the competent authority of the other member state.
- Purpose. 3. The purpose of this Directive is the application by all ACIs of efficient and effective strategies, policies, structures, procedures and mechanisms for the management of arrears and the attainment of fair and viable restructurings of credit facilities of borrowers with financial difficulties,
- Interpretation. 4. For the purposes of this Directive, the interpretations of the Law apply, unless it is otherwise specified in the Directive. In addition, the following interpretations, unless it is otherwise specified in the Directive, apply:
- “arrears” means credit facilities in arrears whereby a borrower has not made a full repayment of a loan instalment by the due date and, also, includes excesses;
- "authorised credit institution" or "ACI" has the meaning attributed thereto by section 2 of the Law and includes, also, subject to paragraph 2, branches of credit institutions of other member states operating in the Republic under section 10A of the Law;
- “borrower” means a physical or legal person to whom the ACI granted one or more credit facilities;

“borrower in financial difficulties” means a borrower whose financial position has deteriorated to an extent that he/she is or may in the foreseeable future be unable to service his/her credit facilities, in accordance with the contractual repayment program;

“arrears” means credit facilities in arrears whereby a borrower has not made a full repayment of a loan instalment by the due date and, also, includes excesses;

"credit facility" has the meaning attributed thereto in the Directive on the Definitions of Non-Performing and Restructured Credit Facilities of 2013.

“Excess” means any amount of the outstanding balance of an overdraft account that exceeds the approved limit.

"Law" means the Business of Credit Institutions Laws of 1997 to (No. 3) 2013.

Regulatory Administrative Act 252/2013.

“non-performing loan” means a non-performing credit facility as defined in the Directive on the Definitions of Non-Performing and Restructured Credit Facilities of 2013.

"primary residence" means a house or apartment which the borrower occupies as his/her main residence and may include a plot or share of plot of land on which the primary residence of the borrower is or will, in due course, be constructed;

"restructuring" means any action by the credit institution that changes the terms and/or conditions of a credit facility, aiming to deal with the existing or expected borrower's difficulties to service the credit facility according to the existing repayment program;

## **PART II - ARREARS MANAGEMENT STRATEGY**

Arrears Management Strategy.

5. Each ACI shall develop a strategy on arrears management, in accordance with the Framework in Appendix 1 of this Directive, that includes, as a minimum:

- (a) the policy on arrears management for every category of credit facilities;
- (b) the appropriate governance structures and control mechanisms with regard to arrears management;
- (c) provisions for the segmentation of credit facilities;
- (d) a clear and determined approach for each category of credit facilities;
- (e) the organisational structure on the arrears management process;
- (f) provisions for procedures, mechanisms and systems, including data requirements, for arrears management;
- (g) the restructuring options and their scope of application;
- (h) provisions for strict adherence to the Code of Conduct on the Handling of Borrowers in Financial Difficulties as provided for in Appendix 2 of this Directive; and
- (i) the provisions for the assessment and measurement of the efficiency and the setting of targets.

Arrears Management

6. (1) Each ACI shall establish and operate an independent, centralised Arrears Management

Unit. Unit, as provided for in Appendix 1 of this Directive.

(2) The degree of centralisation and the corresponding structure of the Arrears Management Unit is determined on the basis of the specificities of each ACI and on the principle of proportionality.

(3) The Arrears Management Unit shall be responsible for the effective monitoring of arrears and restructurings of credit facilities of borrowers in financial difficulties.

### **PART III - APPEALS PROCESS**

Appeals Process.

7. (1) Each ACI shall establish an independent internal appeals process for appeals submitted by borrowers with regard to restructurings and which includes the establishment of an Appeals Committee that is independent from the credit granting, monitoring and restructuring functions of the ACI in order to handle the said appeals in an impartial manner and without any conflicts of interest, as provided for in Appendix 1 of the said Directive.

(2) The appeals process shall be aligned with the provisions of the Code of Conduct on the Handling of Borrowers in Financial Difficulties.

(3) Each ACI publishes on its website and communicates to borrowers upon initiation of the restructuring process, the following:

(a) the policy and procedures with regard to appeals by borrowers in relation with restructuring of credit facilities;

(b) the appeals process; and

(c) the establishment of an Appeals Committee.

### **PART IV - SUNDRY PROVISIONS**

Entry into force.

8. (1) Subject to the provisions of subparagraph (2), all provisions of this Directive enter into immediate force.

(2) The establishment of the Appeals Committee provided for in subparagraph (1) of paragraph 7 enters into force on the 30<sup>th</sup> of September 2013 the latest.

## FRAMEWORK ON ARREARS MANAGEMENT

**This translation, prepared by the Central Bank of Cyprus, is unofficial. The official text of the Framework should be the text in Greek language as published in the Official Gazette of the Republic.**

### PART I – GENERAL PROVISIONS

Title and scope of application.

1. (a) This Framework will be referred to as the Framework on Arrears Management (hereinafter referred to as the "Framework").

(b) The Central Bank of Cyprus (CBC) requires ACIs to implement efficient and effective structures, processes and tools to support arrears management and execute fair, adequate and sustainable debt restructuring.

(c) The Framework provides a uniform approach for ACIs dealing with arrears management. Its purpose is to provide the key principles for a fair and expeditious resolution to the restructuring efforts for borrowers in financial difficulties across the banking sector in the Republic of Cyprus.

(d) ACIs are required to comply with the principles and requirements contained in this Framework.

(e) These principles and requirements are, however, non-exhaustive and shall only be used as a benchmark for the minimum standards required. Each ACI shall also evaluate the relevance and applicability of each provision of this Framework in relation to its own specificities and based on the principle of proportionality.

Definitions.

2. For the purposes of this Framework, the terms and definitions of the present Directive apply.

### PART II – METHODOLOGY FOR AUTHORISED CREDIT INSTITUTIONS ON ARREARS MANAGEMENT

General framework of arrears management.

3. (1) ACIs adopt the five key pillars, described in the figure below, when dealing with arrears and handling borrowers in financial difficulties. These are:

- (a) the adherence to the Code of Conduct on the Handling of Borrowers in Financial Difficulties, as described Appendix 2 (hereinafter referred to as "the Code");
- (b) the development of a robust arrears management strategy;
- (c) the utilisation of relevant, effective and sustainable debt restructuring techniques and options;
- (d) the establishment of a robust organisation and operating model to handle increasing arrears volumes; and
- (e) the monitoring of arrears management performance against key objectives and taking corrective measures as and when required.

(2) In order to ensure that the ACIs have the adequate capability and capacity to handle the increasing volume of arrears over the coming years and that they adhere to the five pillars above, ACIs shall undertake a critical internal assessment of their current arrears management strategy, policies and procedures and benchmark them to the provisions outlined in this Framework. ACIs shall thus, identify the gaps, determine areas of improvement, including systems and infrastructure, and develop an action timeplan to implement the necessary changes to comply with this Framework. The said assessment shall be subject to review by the CBC.

**PART III – CODE OF CONDUCT ON THE HANDLING OF BORROWERS IN FINANCIAL DIFFICULTIES**

Code of Conduct on the Handling of Borrowers in Financial Difficulties.

4. (1) The Code is intended to provide ACIs with a common base for dealing with borrowers in financial difficulties.

(2) The Code is intended to support and facilitate a meaningful interaction between ACIs and borrowers, with the ultimate goal of achieving a fair and sustainable restructuring, where possible. To this effect, the Code clearly outlines, inter alia, the responsibilities of the ACIs in the arrears management process. It, also, makes a clear distinction between cooperative and non-cooperative borrowers with the focus on a consensual and voluntary restructuring.

**PART IV – ARREARS MANAGEMENT STRATEGY (AMS)**

Arrears Management Strategy.

5. Each ACI shall develop a comprehensive arrears management strategy outlining how it will deal with arrears in each primary category of credit facilities that it serves.

The strategy shall include:

- (a) A clearly defined approach for each of the main category of credit facilities it serves.
- (b) An operational plan covering the main components of arrears management including Segmentation, Policy and Debt Restructuring Solutions, Organisation and Capabilities, Processes and Systems and Measurements.

Components of strategy.

6. (1) Each ACI shall develop comprehensive and detailed AMS to effectively manage arrears and deal with borrowers in financial difficulties in a systematic, organised and professional manner and submit to the CBC for assessment.

(2) The AMS shall include the following components:

(a) To address the following situations:

- pre-arrears credit facilities;
- credit facilities in arrears;
- credit facilities' restructuring and modifications.

(b) Be aligned with the overall objectives and strategy of the ACI;

(c) Be specific, measurable and achievable (i.e. commensurate with the manpower and complexity of operations);

(d) Be tailored to the specifics of each category of credit facilities;

(e) Provide relevant, adequate and sustainable restructuring solutions;

(f) Promote a fair, collaborative and case-by-case approach in dealing with borrowers in financial difficulties;

(g) Be clearly communicated to the employees and other relevant persons or bodies; and

(h) Be flexible and subject to regular review in order to adapt to the changing economic conditions and arrears trends.

Portfolio  
segmentation.

7. (1) Portfolio segmentation is a key part of any AMS as it enables the ACIs to adopt and tailor different restructuring solutions to different segments of the loan book. The ability of ACIs to segment and analyse their loan book in granular detail constitutes a basic principle of the arrears management process. ACIs shall place great emphasis on the development of the appropriate systems for portfolio segmentation in order to ensure proper implementation and review of the AMS.

(2) As a minimum, ACIs shall:

(a) Apply the segmentation exercise to each relevant portfolio and sub-portfolio;

(b) Define the portfolio segments based on relevant characteristics (e.g. purpose of credit facility, currency, performance, location of property, borrower's arrears behaviour, etc);

(c) Analyse and assess arrears, troubled areas and trends for each sub-portfolio;

(d) Breakdown each sub-portfolio (e.g. SME loans) into discrete cohorts (e.g. cooperative and viable borrowers with more than 30 days past due (dpd)) as follows:

(i) Level of arrears:

- Pre-arrears (0 dpd);
- Early Arrears (<30 dpd);
- Arrears of 30+ dpd (medium to serious arrears);
- Arrears of 60+ dpd;
- Arrears of 90+ dpd.

(ii) Key risk segments:

- very high;
- high;
- medium; and
- low.

(iii) Viability of borrowers:

- Cooperative and viable borrowers;
- Cooperative but unviable borrowers;
- Non-cooperative borrowers.

(iv) Collection score: using credit rating and internal behaviour data, where possible;

(e) Determine the potential treatment(s) required for each cohort;

(f) Define specific short-, medium- and long-term restructuring options as per the requirements of Part V below, for each sub-portfolio, narrowed down to each cohort;

(g) Perform scenarios / sensitivity analysis and estimate possible portfolio evolutions (including sub-portfolio and cohorts) and the relevant capital requirements, where required;

(h) Monitor the evolution of each sub-portfolio and cohort based on pre-defined Key Performance Indicators (KPI) as per Part VII below;

(i) Based on the results and evolution of the sub-portfolios / cohorts, review the strategy and approaches on a systematic way and in periodical manner.

Strategy  
monitoring.

8. (1) ACIs shall periodically, and at least annually, test the robustness of the AMS and its underlying hypothesis and assumptions and submit their revised strategy to the CBC.

The assessment of ACIs shall take into consideration any changes related to the environment within which the ACI operates, including:

- (a) internal factors (e.g. strategic changes, structural changes, portfolio evolution); and
- (b) external factors (e.g. the market conditions).

(2) In order to adequately monitor and review its AMS, the ACI shall:

- (a) Define the process to measure the robustness of the AMS;
- (b) List the relevant Key Success Factors (KSF) for efficiency and effectiveness and perform regular assessment of the KSF to ensure adequate implementation at all steps of the process;
- (c) Define reporting requirements and formats;
- (d) Establish the frequency monitoring of the AMS and content of relevant reports; and
- (e) Define the internal audit processes to ensure compliance of the ACI with the defined AMS.

(3) The report of the internal auditor on the compliance of the AMS with this Framework shall be submitted to the CBC.

Other main  
components of  
the Arrears  
Management

9. (1) The other main components of the AMS are described in Parts V to VII and include:

Strategy.

- (a) Restructuring Options of credit facilities;
- (b) Processes and Systems;
- (c) Organisation and Capabilities; and
- (d) Measurements.

(2) A comprehensive set of Restructuring Options of Credit Facilities is essential to any ACI to enable it to provide relevant, appropriate and sustainable solutions to troubled borrowers. These options shall provide for an array of short-, medium- and long-term solutions as applicable to the specificities of each troubled borrower.

(3) The establishment of appropriate Processes and Systems ensures that the ACI can handle the arrears cases, current and future, in its portfolio.

(4) Continuous measurement by the ACI of the efficiency and the effectiveness of the arrears management activity is essential in order to evaluate the AMS and adapt its model in order to cope with the requirements of this Framework, with the ultimate aim of the improvement of the loan book of the ACI.

## **PART V – RESTRUCTURING OF CREDIT FACILITIES**

Pre-emption.

10. To effectively deal with pre and early arrears, ACIs are required to implement tools and mechanisms to identify, communicate and manage borrowers with the risk of running into financial difficulties. These include:

- (a) Modelling exercises for early identification of borrowers with financial difficulties;
- (b) Guidelines for the staff on how to manage pre and early arrears and effectively deal with borrowers in financial difficulties; and
- (c) Written resources for borrowers in financial difficulties (e.g. websites, brochures) explaining the procedures related to restructuring.

Define options and solutions.

11. (1) ACIs shall develop and implement suitable restructuring framework of credit facilities with a view to providing viable borrowers with restructuring solutions that are robust and sustainable in the long term and thus enhance the safeguarding of the assets of the ACI. To this end, ACIs shall ensure that the restructuring framework:

- (a) is aligned with the AMS;
- (b) provides for assessment on a case-by-case basis;
- (c) provides for the proposal of a range of fair and sustainable restructuring options to borrowers;
- (d) is focused on the development and implementation of long-term restructuring solutions but, where appropriate, may allow for a combination of long-, medium- and/or short-term arrangements;
- (e) combines traditional and non-traditional restructuring-solutions;



(f) is customised according to the category of the credit facilities (e.g. housing loans, consumer loans, SME/business loans, corporate loans, CRE loans) and the segment particularities (e.g. investment property finance); and

(g) may include collateral / property sales programmes, if and when relevant;

A number of restructuring options of credit facilities that ACIs may incorporate in their framework to consider when assessing the financial situation of troubled borrowers are described in Section III of this Framework.

(2) ACIs shall communicate the restructuring framework of credit facilities, including the measures, options, guidance and tools for decision making to all pertinent units and relevant employees and provide adequate training to them.

(3) ACIs shall adapt their restructuring framework to incorporate additional measures that may be presented by the CBC when evaluating the options of the ACI.

Restructuring tools and processes.

12. Each ACI shall establish and implement necessary the tools and processes that facilitate the implementation of restructuring solutions of credit facilities.

These include, but are not limited to:

(a) Decision trees, designed to assist the persons responsible of the restructuring in categorising borrowers, determining and implementing the appropriate and sustainable strategies for a specific category of borrower in a consistent manner, based on pre-defined and approved criteria;

(b) Specific list of restructuring options (“Restructuring Toolkit”) that have been approved by the ACI and is available for use;

(c) Tracking system, designed to facilitate the identification and segmentation of borrowers and credit facilities based on similar criteria and enable implementation of systemic strategies where possible.

Arrears management policies (including pricing policy on debt restructuring).

13. (1) ACIs shall ensure that their current credit and arrears management policies and procedures are updated to ensure adherence with the principles and requirements of this Framework.

(2) ACIs shall implement a fair and sustainable pricing policy with regard to restructured credit facilities. The objective of the pricing policy should be to minimise costs, fees and interest rates for borrowers that are subject to restructuring of their credit facilities. In a restructuring situation, the emphasis should always be on the repayment of the principal. The restructuring policy shall provide for:

- (a) the charging of a reasonable and fair interest rate on credit facilities that are in arrears;
  - (b) careful consideration of the impact of the level of interest rate on the repayment ability of the borrower when restructuring any credit facility in arrears;
  - (c) the charging of the minimum possible charges, fees and out of pocket expenses in the total debt restructuring assessment;
  - (d) adaptation of the pricing policy to each sub-portfolio / cohort;
- (3) ACIs shall, at least on a bi-annual basis, review and revise, where deemed necessary, their pricing policy, and submit detailed information on the said policy to the CBC.

## **PART VI – ORGANISATIONAL STRUCTURE AND OPERATING MODEL**

Target organisation and operating model.

14. (1) ACIs shall clearly define the blueprint of the organisational structure, level of resources and capabilities and systems and processes required to effectively implement and monitor the AMS.

(2) ACIs shall implement a robust operating model that encompasses all systems, policies, processes and procedures in order to support the effective and efficient management of arrears of borrowers with financial difficulties.

(3) The operating model:

- (a) shall align with the ACI's policy framework and strategy;
- (b) may comprise a single integrated process in order to ensure efficiency and cost savings;
- (c) shall address all relevant areas of the organisation (e.g. workforce, operations etc); and
- (d) shall focus on outcomes and the effectiveness of arrears management activities.

(4) With regards to the policies and procedures, the ACI shall, as a minimum set:

(a) The policy on restructured credit facilities that adhere to this Framework;

(b) Governance and authority structures for restructuring of credit facilities and the specific areas of responsibility for dealing with borrowers in financial difficulties;

(c) Definitions, including criteria and tests where relevant, for:

- (i) Types of default;
- (ii) Types of arrears;
- (iii) Viability/Sustainability.

- (d) Guidelines for the assessment of credit facilities in arrears, including calculation of the reasonable living expenses when performing the assessment of individual borrowers' financial position;
- (e) Guidelines for the handling of arrears and restructuring of credit facilities in the event of multiple creditors (relevant information are presented in Sections II and IV of this Framework);
- (f) Early warning mechanisms and borrower handling procedures and the operational processes per sub-portfolio/cohort;
- (g) Form, content and speed of communication with borrowers in financial difficulties (including pre-arrears cases);
- (h) Process for information gathering (i.e. type, frequency, validation and archiving);
- (i) Data / information analysis and assessment, both in physical and electronic form;
- (j) Guidelines for defining non-cooperative borrowers and respective treatment;
- (k) Types of alternative repayment measures available;
- (l) Tools and mechanisms to facilitate decision making (e.g. decision trees);
- (m) Guidelines to enable a flexible approach towards handling of borrowers' complaints;
- (n) Measurement and monitoring including rewards and accountabilities, and reporting mechanisms, including frequency and purposes;
- (o) Policies for staff dealing with restructuring of credit facilities, including training policies.

Organisational structure and human capital.

15. ACIs shall establish an appropriate organisational framework for the sound management of arrears and borrowers in financial difficulties. The organisation framework shall ensure that:

- (a) human resource is adequate and appropriately trained; and
- (b) all tasks and responsibilities are clearly defined and allocated amongst the Board of Directors, Management and relevant functions and personnel involved in the management of arrears, the handling of borrowers in financial difficulties and the restructuring of troubled but viable cases.

Organisational review and resource design.

16. ACIs shall perform a thorough assessment of their internal capabilities in relation to arrears management, debt restructuring and expertise in the different sectors of the market. The assessment shall include, but not be limited to:

(a) Assessment of the existing organisational structure and procedures with regard to the management of arrears and the handling of borrowers in financial difficulties.

(b) Quantification of resources: Determine the currently available internal and external resources, the level and type of headcount required for each function, evaluate the appropriateness of the existing staff and assess relevant in-house availability for reallocation;

(c) Appraisal of human resources: Assess the required knowledge, expertise and current performance of staff as well as identification of the skills gap and the specific needs for workforce improvements and resourcing;

(d) Upgrading of human resources: Evaluate methods for up-skilling of existing workforce and plan required training. This shall also take into consideration:

- (i) Level of experience and expertise required for each sub-portfolio / cohort;
- (ii) The current and forecasted needs; and
- (iii) The responsibilities and any necessary level of specialisation.

Resource  
planning.

17. (1) Resource planning is aimed at determining the most optimal, efficient and effective combination of resources required by the ACI to manage arrears, current and future, and deal with borrowers in financial difficulties.

(2) ACIs shall assess potential gaps in resources and define resource plans for the short-, medium- and long-term, taking into account strategic, operational and economic rationales (e.g. the forecasted evolution of the portfolio and arrears profile).

(3) The measures required to upgrade the current organisation and capabilities with the needs defined. These may include:

- (i) Internal planning: to find the relevant and competent people from within the organisation;
- (ii) High potential assessment and retention programmes: to ensure preservation and motivation of key workforce;
- (iii) Job description accuracy: to be reviewed and amended, as and when required;
- (iv) Training planning of workforce: to address training requirements for up-skilling;
- (v) Planning of outsourcing: to identify potential third parties, that may provide services regarding the assessment of existing workforce.
- (vi) Management planning: to ensure that existing management is capable and qualified in that area.

Arrears  
Management  
Unit.

18. (1) ACIs shall establish an independent, centralised Arrears Management Unit (AMU) with function that specialises in the various categories of credit facilities with a view to effectively monitor arrears and troubled cases as well as restructurings of borrowers in financial difficulties. The AMU is distinct from the Debt Recovery Unit which typically deals with non-viable borrowers.

(2) The level of centralisation and the corresponding structure of the AMU shall be determined by the specificities of each ACI having due regard to the principle of proportionality.

(3) While creating the AMU, the ACIs shall:

- (a) Clearly outline the reasoning and rationale (i.e. strategic, technical, operational and economical) for the chosen AMU structure;
- (b) Clearly define the criteria for referral of the monitoring of a troubled case to the AMU;
- (c) Ensure that the AMU operates as an independent entity, separate from the credit function and relationship function, and;
- (d) Establish and communicate the approach that the AMU should adopt for each asset class (for example, when it is appropriate to use a “cradle to grave” approach, where one case manager is responsible for the entire workout lifecycle, and when an “assembly line” approach, where different case managers are assigned based on the severity of arrears).

Independence of the Arrears Management Unit.

19. (1) In order to ensure a fair and impartial approach to arrears management and restructuring of credit facilities of borrowers in financial difficulties, ACIs shall ensure that the AMU functions as an independent body.

(2) The personnel operating within the AMU may not have any association or affiliation with the credit functions that might infringe their independence and should not have been involved in the loan origination. The level of collaboration between the two functions is limited to the transfer of client knowledge from the credit / relationship function to the AMU.

(3) If shared resources do exist between the AMU and the credit function, then the ACI shall implement relevant processes and mechanisms to maintain the integrity and fairness of the restructuring process.

Alignment of policies, procedures and resources.

20. (1) ACIs shall ensure that all policies, procedures and resources are aligned with their current and forecasted strategic needs and objectives.

(2) To this effect, ACIs shall:

- (a) Establish appropriate governance structures and control mechanisms to monitor, identify and rectify any inconsistencies in a timely and effective manner;
- (b) Assign tasks and responsibilities and establish accountabilities, measurable objectives (i.e. Key Performance Indicators (KPI)) and benchmarks to evaluate and assess the AMU, team and individual performance;
- (c) Clearly define and communicate performance standards, develop training and awareness programmes and establish processes to recognise and reward achievements.

Process efficiency.

21. (1) ACIs shall ensure process efficiency in the management of arrears and handling of borrowers in financial difficulties through the implementation of best policies, procedures and practices.

(2) These include:

(a) Lean thinking: ACIs shall ensure that they implement policies and procedures to enable application of lean concepts and techniques in operational processes to maximise time and cost efficiency, both for the ACI and the borrowers, during the restructuring process. Some examples of lean measures are decision trees, standardised checklists, inter alia, for gathering information, and pre-defined analytical models, such as cash flow sensitivity analysis.

(b) Caseload management: The management at each ACI shall be responsible for determining the optimal number of cases handled by each team and individual case officer. The management shall also be expected to define control criteria, establish automated processes for the monitoring and reporting, where possible, and implement preventive and corrective measures (e.g. removal of low-value activities, batching, re-allocation of resources, automation of processes) to avoid any disruptions in the process.

(c) Sharing of best practices: ACIs shall make available throughout the organisation a forum for sharing best practices on arrears management and restructuring. Management shall encourage knowledge sharing amongst employees and update policies and procedures on a regular basis to ensure alignment with international best practices.

(d) Culture of continual improvement: Management shall take the necessary measures to facilitate improvements in arrears management and restructuring of borrowers in financial difficulties. ACIs shall put in place mechanisms shall be in place to enable timely and effective implementation of corrective measures and improvements as and when required (e.g. specialized training, modification of processes).

(3) ACIs shall evaluate process efficiency based on the criteria relevant to their business and portfolio particularities. ACIs shall submit to the CBC their policies, practices and procedures in the area of arrears management and restructuring of credit facilities and shall demonstrate thereto that they have implemented them appropriately and that they apply them consistently.

Management  
Information  
Systems.

22. ACIs shall develop a comprehensive database and MIS to:

- (a) efficiently and effectively manage arrears, troubled loans and borrowers in financial difficulties;
- (b) perform the required analysis on the loan book that enables segmentation and performance assessment;
- (c) incorporate an early warning system enabling the uniform pre-emption of potentially problematic credit facilities based on pre-defining indicators; and
- (d) facilitating the filtering of the loan portfolio into facilities that may be sold or pledged when required.

(2) ACIs shall evaluate their MIS periodically and at least annually, in order to timely execute necessary improvements.

(3) ACIs shall ensure that the MIS capabilities are sufficient to meet the specified needs and requirements. As a minimum, MIS shall enable the ACIs to:

- (a) detect early warnings;
- (b) assess the borrower's financial position and its repayment ability;
- (c) manage revenues and cash flows from collateral;
- (d) monitor evolution of portfolio(s) / sub-portfolio(s) / cohorts;
- (e) measure performance and compliance of the borrower based on specific targets and pre-defined criteria;
- (f) identify, pre-empt and monitor troubled cases;
- (g) assess restructuring scenarios;
  
- (h) prepare automatic reporting on loan performance for Senior Management and Board of Directors; and
- (i) reporting to CBC.

Data quality. 23. ACIs shall implement relevant processes and controls to assess and report on the completeness and accuracy of data and information they receive. To this effect, ACIs shall:

- (a) Define priorities and criteria for data gathering and maintenance;
- (b) Establish mechanisms, on the basis of the proportionality principle preferably automated, for the periodic review and reporting of data, and the monitoring of covenants and compliance.
- (c) Implement quality control mechanisms to ensure completeness, correctness and consistency of data and information between internal systems.

Data retention policy. 24. (1) ACIs shall implement a data retention policy that lays down the requirements for storage, retention and accessibility of all supporting and legal documentation with respect to arrears management and of credit facilities restructuring, including communication with borrowers.

(2) The data retention policy shall provide that data archiving and record-keeping requirements for troubled cases is more stringent in order to ensure that all parties involved in the restructuring are able to easily retrieve and review documentation and information regarding restructuring processes and decisions.

Process effectiveness. 25. ACIs shall ensure that process effectiveness is achieved in the arrears management process, and that the outcomes from this activity are sustainable, especially in relation to the level of re-defaults of the restructured credit facilities which shall be kept at a minimum level. ACIs shall also monitor the robustness of cure rates in order, inter alia, to timely implement necessary corrective measures that aim at minimising re-default situations, particularly in areas that the ACI can control (e.g. proper case assessment).

Monitoring organisation and operations. 26. (1) ACIs shall lay down the policies and procedures for the regular evaluation of the internal capabilities of the ACI's including reporting requirements.

(2) To perform adequate measurements, the ACIs shall define precise Key Success Factors (e.g. number of performing / non-performing restructurings, quality of restructuring measures implemented, level of re-arrears, etc).

(3) ACIs shall assess the availability, appropriateness and effectiveness of resources at least on a bi-annual basis under normal economic environment and at least annually under stressed economic environment.

(4) ACIs shall also perform an annual review of the efficiency of processes and systems utilised for arrears management and restructuring, including in relation to compliance, quality assurance and full risk assessment.

Operations.

27. ACIs shall implement relevant safeguard measures to ensure that all tools and processes are efficiently and effectively in operation and that sustainable solutions are delivered to the borrowers in arrears and/or in financial difficulties. These include:

(a) Regular credit reviews on sample portfolios or segments to assess the standard of case management, with the objective of embedding best practice.

(b) Quality assurance exercises to ensure all quality and compliance requirements are being met. QA reports shall be submitted to Senior Management at least on a monthly basis;

(c) Establishing and communicating KPIs to measure process efficiency (e.g. level and speed of communication, quality of information received, approved business plans, amounts of cases in arrears, time to restructure, etc).

(d) Establishing and communicating KPIs to measure process effectiveness (e.g. cash collected, restructurings performed, additional security received, etc.);

(e) Automated monitoring of processes and KPIs through MIS;

(f) Implementation of manual reporting mechanisms for items which cannot be automatically monitored to avoid omissions;

(g) A full risk assessment of all watch list cases on a quarterly basis with reporting to be available for the CBC, as and when requested;

(h) Establishing the criteria for other risk assessment (e.g. key risk segments, high / medium risk borrowers, extent and frequency); and

(i) Specific focus on analysing broken promises and re-defaults to determine causes and potential remedies.

## **PART VII – MEASUREMENTS**

Monitoring of credit risk.

28. ACIs shall implement internal systems and processes, in alignment with the CBC Directives and Circular Letters, which will effectively identify and monitor credit risk and assess arrears management performance. For any inefficiencies with regard to the arrears management performance, the CBC may impose sanctions to ACIs, which may include, inter alia, restrictions on bonuses.

Performance metrics.

29. ACI shall cascade their AMS into specific performance metrics (e.g. KPIs) and implement the relevant scorecard and systems to ensure effective control, monitoring and reporting.

Output metrics.

30. ACIs shall implement processes and systems to provide activity and output metrics (e.g. amounts collected, restructures with no arrears after x months, cure rates, etc).

Cash collection effectiveness.

31. ACIs shall implement processes and systems to enable the accurate measurement of the effectiveness of cash collection.



Internal audit. 32. ACIs shall lay down the mechanisms and processes in relation to credit review and internal audit. The credit review and internal audit reports shall be made available to the CBC on request.

Review of restructured cases. 34. (1) For cases that have been restructured, ACIs shall carry out a review on at least a bi-annual basis to ensure that all conditions are being met, all milestones are being achieved and there have been no significant deviation from in the forecasted financial circumstances of the borrower.

(2) ACIs shall lay down effective processes and mechanisms in order to enable timely reaction in the event that the restructuring conditions and/or milestones are not being met and/or the financial situation of the borrower has materially changed. ACIs shall cascade the processes including legal and other measures to be undertaken for cases where sustainable viability cannot be achieved or the borrower is no longer cooperating.

### **PART VIII – APPEALS PROCESS**

Appeals process. 35. (1) ACIs shall establish an internal independent appeals process and shall submit a detailed implementation plan to the CBC.

(2) While developing the appeal process, the ACIs shall ensure that:

(a) The appeals process is aligned to the provisions of the Code;

(b) the Appeals Committee as established, is independent of the credit granting, monitoring and restructuring functions, in order to handle claims and complaints of borrowers with respect to restructuring impartially and without any conflict of interest;

(c) Specific policies and procedures concerning claims, the appeals process for borrowers and the operation of the Appeals Committee are published and communicated to borrowers upon initiation of the restructuring process;

(d) All relevant supporting information and documentation is made available to borrowers to enable them to file claims or appeals;

(e) All relevant supporting information and documentation is made available to the Appeals Committee to enable it to make an adequate assessment of the complaint and reach a fair compromise between the ACI and the borrower;

(f) All necessary control processes to effectively monitor procedures and decisions have been established;

(g) Adequate safeguard mechanisms to ensure impartiality in the appeals process have been developed and are being implemented; and

(h) A robust archiving system to accurately track and store claims and appeals, in line with safeguard requirements, has been implemented.

(3) ACIs shall, periodically, communicate the progress of the appeals process to the CBC, including submitting a summary of the claims / complaints examined.

## **SECTION I: ASSESSMENT OF REASONABLE STANDARD OF LIVING**

ACIs shall develop a policy that ensures fairness, appropriateness and equality and communicate it to all employees involved in the restructuring of credit facilities. For this purpose, ACIs shall implement guidelines for determining what constitutes a reasonable standard of living and reasonable living expenses to be applied in particular when assessing the debt-servicing capacity of a borrower in financial difficulties during the restructuring process. These guidelines shall capture at least the following:

- (a) the financial assessment shall take into account the prevailing economic, social and legal particularities;
- (b) the restructuring approach shall ensure respect and fairness to borrowers as well as consistency between borrowers;
- (c) when determining a reasonable standard of living, every effort should be taken to avoid excessive or unjustifiable luxury lifestyles, but, at the same time, it shall be such that it allows the borrower to have an appropriate house and the necessary equipment for survival;
- (d) the restructuring shall not lead to undue hardship but, whilst striking the right balance, shall be based on respect of the physical, psychological and social needs of, the troubled borrowers;
- (e) ACIs shall respect the individual's legal rights;
- (f) the assessment shall take into account the need for people to be able to maintain active their involvement in the society, as other citizens do;
- (g) The financial assessment shall take into account the individual situation of the borrower, including the household composition (e.g. number of adults, number of dependants), the essential need for a car, the variable costs encountered (e.g. paid childcare, children education), any specific needs (e.g. medical needs, physical disabilities), and any discretionary expenses specific to the individual situation; and
- (h) the guidelines shall be fully transparent and shall contribute to initiating discussion with the borrowers;

## **SECTION II: APPROACH TO MULTIPLE CREDITORS**

Borrowers may have various debts with multiple creditors, which can take diverse forms and may include, inter alia, other ACIs and other types of creditors (e.g. trade creditors, workers, tax authorities, etc) that may be secured or unsecured. Such multiplicity of creditors may lead to complexity in finding a sustainable debt restructuring solution for the borrower .

Creditors, in case of ACIs, shall collaborate and be transparent during the debt restructuring process, having due regard to the following:

- (a) creditors acting independently and solely in their own interest may aggravate the difficulties for the borrower and lead to further problems in the servicing of their credit facilities.
- (b) In order to avoid the multiple impacts of bankruptcy on all creditors, the interests of both secured and unsecured creditors shall be considered in the development of a restructuring solution that is thus viable and sustainable;
- (c) collaboration between the broader group of creditors is beneficial if it provides for burden sharing arrangements and minimisation of the overall costs.

ACIs are recommended to incorporate in their policies international best practices in this respect, such as, for example, the "Eight Principles" approved by INSOL<sup>1</sup> International in 2000 for multi-creditors workouts. These principles are described, in brief, below:

**First principle:** Where a debtor is found to be in financial difficulties, all relevant creditors should be prepared to cooperate with each other, to give sufficient though limited time (a “standstill period”) for information about the debtor to be obtained and evaluated, and for proposals for resolving the debtor’s financial difficulties to be formulated and assessed, unless such a course is inappropriate in a particular case.

**Second principle:** During the standstill period, all relevant creditors should agree to refrain from taking any steps to enforce their claims against or (otherwise than by disposal of their debt to a third party) to reduce their exposure to the debtor, but are entitled to expect that during the standstill period their position relative to the other creditors will not be prejudiced.

**Third principle:** During the standstill period, the debtor should not take any action that might adversely affect the prospective return to relevant creditors (either collectively or individually) as compared with the position at the standstill commencement date.

**Fourth principle:** The interests of relevant creditors are best served by coordinating their response to the debtor. Such coordination may be facilitated by the set up of one or more representative coordination committees and by the appointment of professional advisers to advise and assist such committees and, where appropriate, the relevant creditors participating in the process as a whole.

**Fifth principle:** During the standstill period, the creditors should require the debtors to provide, and to allow relevant creditors and their professional advisors reasonable and timely access to all relevant information relating to their assets, liabilities, business and prospects, in order to enable the proper evaluation of the financial position and the development of sustainable proposals for all participating creditors.

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<sup>1</sup> Thomas Laryea, International Monetary Fund, 26 January 2010, Approaches to Corporate Debt Restructuring in the Wake of Financial Crises, IMF Staff Position Note, pp. 17-18

**Sixth principle:** Proposals for resolving the financial difficulties of the debtor and, so far as practicable, arrangements between relevant creditors relating to any standstill, should reflect applicable law and the relative positions of relevant creditors at the standstill commencement date.

**Seventh principle:** Information obtained for the purposes of the restructuring process concerning the assets, liabilities and business of the debtor and any proposals for resolving its difficulties should be made available to all relevant creditors and should, unless already publicly available, be treated as confidential.

**Eighth principle:** If additional funding is provided during the standstill period or under any rescue or restructuring proposals, the repayment of such additional funding should, so far as practicable, be accorded priority status as compared to other indebtedness or claims of relevant creditors.

## **SECTION III: DEBT RESTRUCTURING OPTIONS**

### **Out-of-court debt restructuring<sup>2</sup>**

Out-of-court restructuring of credit facilities involves changing the composition and/or structure of assets and liabilities of borrowers in financial difficulty, without resorting to judicial intervention, and with the objective of promoting efficiency, restoring growth and minimizing the costs associated with the borrower's financial difficulties. Restructuring activities may include measures that restructure the borrower's business (operational restructuring) and/or measures that restructure the borrower's finances (financial restructuring). The borrower and the ACI may protect their respective interests more effectively if a contractual arrangement for debt restructuring is implemented.

ACIs shall identify the reasons creating the financial difficulties of the borrower, perform the financial assessment and then develop appropriate restructuring options that may be of a short, medium or long-term nature or a combination thereof.

Some of the options in the contents of debt restructurings are set under the headings "short-term solutions" and "long-term solutions".

ACIs and borrowers may seek legal and/or any other advice on any of the debt restructuring solutions.

#### **Short-term solutions**

Short-term solutions are defined as restructured repayment solutions of duration of less than five years. In the case of construction of commercial property and project finance, a short-term solution may not exceed 3 years.

The contract for restructurings should provide for at least an annual review by the ACI in order to allow for adjustment of the contractual terms in accordance with unanticipated changes in the economic environment and / or the borrower's financial situation.

ACIs may incorporate the following options in their short-term restructuring solutions:

**I. Interest only:** During a defined short-term period, only interest is paid on credit facilities and no principal repayment is made. The principal amount thus remains unchanged and is converted into a new repayment structure at the end of the interest-only period, subject to the then repayment ability as forecasted on a best effort basis..

**II. Reduced payments:** Decrease the amount of repayment instalments over a defined short-term period in order to accommodate the borrower's new cash flow situation and then continue with the repayments on the basis of a projected, on a best effort basis, repayment ability. This option may be combined with other options to compensate for the temporary lower repayments, e.g. term extension, higher balloon payment. The reduced repayment instalments may be:

- *Higher than interest:* Each instalment provides for the full payment of the interest due for the period plus an amount to be allocated to the amortisation of the principal amount.
- *Lower than interest:* The instalment is lower than the interest due for the period so the portion of the interest that is accrued but not paid is capitalised into the principal amount (typically added to the outstanding principal balance for future payment). This option may only be used in exceptional cases e.g. in periods of unemployment, substantially reduced earnings or during business restructuring.

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<sup>2</sup> From the study of Out-of-court Debt Restructuring of the members of the World Bank's Insolvency and Credit/Debtor Regimes Initiative and based on the World Banks Principles.

**III. Arrears and/or interest capitalisation:** The capitalisation of arrears and/or of accrued interest arrears to the principal; that is for bearance of the arrears and addition of any unpaid interest to the outstanding principal balance for repayment under a rescheduled program. This technique is utilised in cases of insufficient cash flow to settle the arrears and/or interest but when the forecasted cash flow is deemed adequate to repay the capitalised balance over the remaining extended loan term.

**IV. Grace Period:** An agreement allowing the borrower a defined delay in fulfilling the repayment obligations usually with regard to the principal. This gives the borrower the capacity to resolve a temporary difficulty or setback. It may also be used, during the period of the restructuring process.

**V. Interest rate reduction:** Permanent or temporary reduction of interest rate (fixed or variable) into a fair and sustainable rate. Credit facilities with high interest rates are one of the common causes of financial distress. The financial difficulties of a borrower may partly derive from the fact that the interest rates are excessively high compared to the income of the borrower or from the fact that the evolution of interest rates, as opposed to a fixed rate, has resulted in the borrower receiving finance at an exorbitant cost, compared with prevailing market conditions.

ACIs shall recognise that a high interest rate may become the cause of severe economic distress and it may be to their interest to reduce the interest rate rather than risk a complete default of their loans.

### **Long-term solutions**

Long-term solutions are defined as restructured repayment solutions of duration of five years and above and, for the construction of commercial property or project finance, of three years and above.

The contract for such restructurings should provide, for at least an annual review. The following are the main long term solutions that can be used by banks in out-of-court restructurings.

**I. Extension of maturity:** Extension of the maturity of the loan (i.e. of the last contractual loan instalment date) which allows a reduction in instalment amounts by spreading the repayments over a longer period. In the case of loans to individual borrowers, the extension period may not go beyond the retirement age or 70 years old at the latest, on the basis of a case-by-case assessment by the ACI.

An extension of the maturity date beyond the age of 70 may only be granted in remote, exceptional cases where there is valid evidence of a specific source of repayment at a specific point in time.

**II. Capture surplus cash:** Aims at securing cash flows, which may currently not be unencumbered and/or not pledged by the ACI. Surplus cash may be obtained, for example, from higher cash flows from operations, as well as from disposal of collaterals, or unencumbered assets.

**III. Additional security:** When additional liens on unencumbered assets are obtained as additional security from the borrower in order to compensate for the higher risk exposure and as part of the restructuring process. This typically aims at improving or curing Loan to Value (LTV) ratio covenants. Additional security may take many forms, such as a pledge on a cash deposit, assignment of receivables, a new/additional mortgage on immovable property.

**IV. Sale by agreement/assisted sale:** The ACI and the borrower may agree to voluntarily dispose of the secured asset(s) to partially or fully repay the debt. The ACI restructures any residual debt with an appropriate repayment schedule in line with the borrower's reassessed repayment ability.

V. Split mortgage: Where a ACI agrees to split a borrower's unaffordable mortgage loan into (a) an affordable mortgage loan, which the borrower repays, on the basis of the assessed repayment ability, and (b) a remaining balance, which is set aside or "warehoused" for repayment at a later date. An example of a structure is where the loan is split into two tranches, where the first tranche is right-sized to the assessed current repayment capacity of the borrower and the second tranche is warehoused by the bank, usually at the basic interest rate. The second tranche is paid in the future when the borrower's repayment capacity improves or from the proceeds of sale of the mortgaged or other property.

VI. Trade down mortgage: A mechanism that allows the distressed borrower with a mortgage on the primary residence or business premises to trade down to a lower value property. Any shortfall for the repayment of the existing loan with the revenues from the sale is carried forward as "negative equity" into a new mortgage loan for the acquisition of a new "less expensive property", i.e. a property of lesser cost than the realised sales proceeds. This option shall be evaluated on the basis of the level of trade down possible, by comparing the current value of the property and the loan outstanding, and on the basis of the new repayment capacity of the borrower. This option has the benefit of reducing the debt outstanding, to affordable payments by the borrower.

VII. Forbearance of penalties in loan agreements: Waiver, temporary or permanent, of violations of covenants in the loan agreements.

VIII. Alteration of covenants: The covenants included in a loan agreement may be unnecessarily restrictive and may impose a considerable burden on the borrower. The ACI may assess the discharge of the borrower from these covenants at the same time, shall monitor adequately the activities and financial soundness of the borrower.

IX. Rescheduling of payments: The existing contractual repayment schedule is adjusted to a new sustainable repayment program based on a realistic, current and forecasted, assessment of the cash flow generation of the borrower:

- *Partial repayment:* When a payment is made against the credit facility, eg from sale of assets that is lower than the outstanding balance. This solution is applied to significantly reduce the exposure at risk and to enable a sustainable repayment program of the remaining outstanding amount.
- *Balloon or bullet payments:* When the rescheduled repayment entails a large payment of the principal at the loan maturity or at a later maturity date in order to allow the borrower additional time. This option may only be used when the borrower can duly demonstrate future cash flow availability to meet the balloon or bullet payment.

X. Strengthening of the debt security: A restructuring solution may entail the pledge of additional security for instance, in order to compensate for the reduction in interest rates or to balance the advantages the borrower receives from the restructuring.

XI. Rollover: This is one of the less radical changes that a restructuring may entail, and consists of modifying the maturity date, providing for the same interest for the extended period of time granted for payment. During the design of such restructurings, it shall, inter alia, be seriously taken into consideration the adverse effect of any increase in the interest rate to the repayment ability and the viability of the borrower. For example, the principal outstanding may be refinanced into a new loan of similar terms for a defined additional period.

XII. New loan facilities: Providing new financing arrangements may be crucial for the recovery of a distressed borrower. Therefore, new loan facilities may be granted during a restructuring agreement, which may entail the pledge of additional security and in the case of inter-creditor arrangements the introduction of covenants in order to compensate for the additional risk incurred by the ACI that provides a new financing to a distressed borrower.

XIII. Conversion of the currency in which debts are denominated: The aim should be to align the currency of the debt to the currency of the cash flows. ACIs shall explain fully to borrowers the risks of foreign exchange and shall also refer to currency conversion insurance.

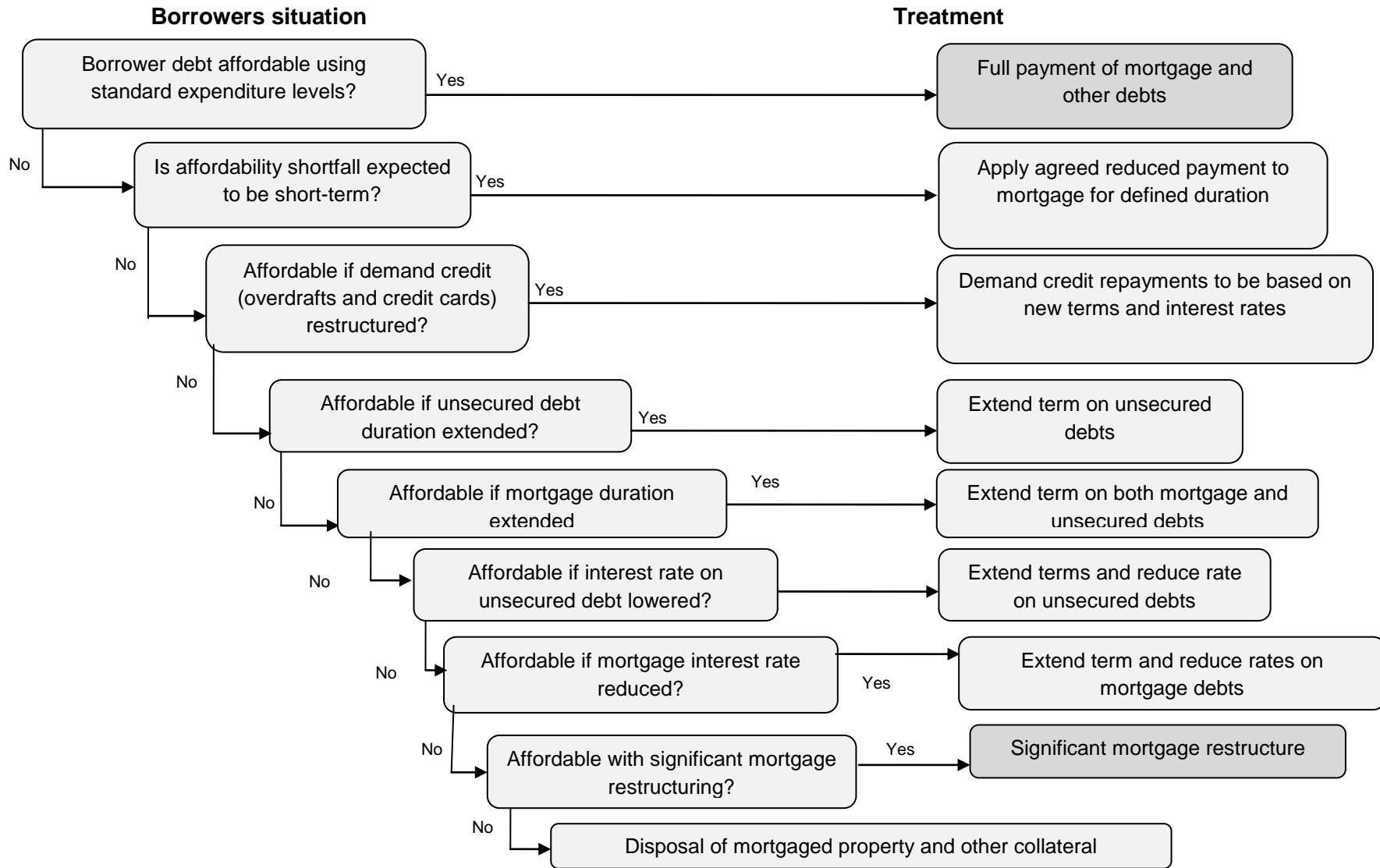
XIV. Debt/equity swaps: Typically occurs in corporate restructuring where part of the debt is set-off and an equivalent amount of equity is obtained by the ACI, with the remaining debt right-sized to the cash flows of the borrower. The objective is to minimise the current burden for the borrower and allow repayment to the ACI from repayment on the re-sized debt and from the eventual sale of the equity stake in the business. ACIs shall ensure the legality and clarity of the terms of such debt/equity swaps, eg call options of the company, put options of the ACIs, right to sell to third parties/pre-emption rights, as well as compliance with the Business of Credit Institutions Laws of 1997 to (No. 3) 2013 especially with regard to provisions relating to qualifying holdings, acquisitions in satisfaction of debt and concentration risks. This solution should be used only in exceptional cases and only where all other efforts for restructuring are exhausted.

XV. Debt consolidation: Entails the combination of multiple exposures into a single loan or a limited number of loans. This option is particularly beneficial in situations where combining collaterals and secured cash flows provide greater overall security coverage for the entire debt than individually. For example, by minimising cash leaks or by facilitating re-allocation of cash flow surplus between exposures.

XVI. Partial or total debt write-off: This corresponds to cancelling part or the whole of the amount of debt outstanding by the borrower. This option may only be used as a last stage where the ACI agrees to a “reduced payment in full and final settlement”, whereby the ACI accepts to write-off all of the remaining debt if the borrower repays a reduced amount of the principal balance within an agreed timeframe. ACIs may apply the debt forgiveness solutions only as a last resort in remote cases since the possibility of forgiveness can give rise to moral hazard. Knowing that debt forgiveness is a possibility of a restructuring may induce borrowers to engage in riskier projects and to behave irresponsibly.



### SECTION IV: ILLUSTRATIVE EXAMPLE OF MULTIPLE DEBTS RESOLUTION WATERFALL<sup>3</sup>



<sup>3</sup> Source: Central Bank of Ireland, Framework for a Pilot Approach to the Co-Ordinated Resolution of Multiple Debts owed by a Distressed Borrower, Multiple Debts Resolution Waterfall model , 8 May 2013, p.6

## APPENDIX 2

### CODE OF CONDUCT ON THE HANDLING OF BORROWERS IN FINANCIAL DIFFICULTIES

#### Part I

##### 1. INTRODUCTION:

Credit institutions shall apply the principles of the Code of Conduct on the Handling of Borrowers in Financial Difficulties of 2013 (hereinafter the "Code") to all borrowers and, where relevant, their guarantors, which for the purpose of this Directive include other third party security providers, across all categories of credit facilities.

The effective management of arrears of viable borrowers in financial difficulties (hereafter "the borrowers") is an essential component of the credit institution's risk management, particularly in a distressed environment. The objective of arrears management is to reduce credit risk and avoid further deterioration of the financial position of the borrower, with the ultimate objective of reinstating, where possible, the sustainable ability of borrowers to meet their credit obligations.

On the basis of this premise, credit institutions shall effectively and adequately manage arrears and pre-arrears situations and perform debt restructuring of borrowers based on market-based voluntary restructurings and workouts, where possible.

The Code is intended to provide credit institutions with direction on the approach credit institutions shall follow with a view to attaining the necessary means to develop and implement sustainable restructuring measures based on the borrower's repayment capacity. The underlying objective is to minimise the level of repossessions in order to achieve the social objective of keeping borrowers in their primary residence and maintaining the sustainability of businesses and therefore to support the Cypriot economy as a whole.

##### 2. OBJECTIVES:

The aim of the Code is to enhance the level of cooperation between credit institutions and borrowers in order to achieve:

- a sound portfolio for the credit institution;
- serviceable credit facilities by the borrower;
- maintenance and growth of business and the economy;
- maintenance of property; and
- minimisation of repossessions and disposals.

The main objectives of the Code are:

- to guide the interactions and exchanges between the credit institutions and the borrowers towards mutual understanding and co-operation;
- to encourage collaboration between the credit institutions and the borrowers to enable effective management of arrears;
- to set the obligations and responsibilities of credit institutions during arrears management and restructuring process;
- to ensure that credit institutions adequately inform and fully explain to borrowers their rights and obligations in relation to arrears and restructuring; and
- to facilitate the process of solving the borrowers' difficulties in meeting their contractual financial obligations with the implementation of satisfactory and sustainable restructuring solutions, where possible.

### 3. GENERAL PRINCIPLES:

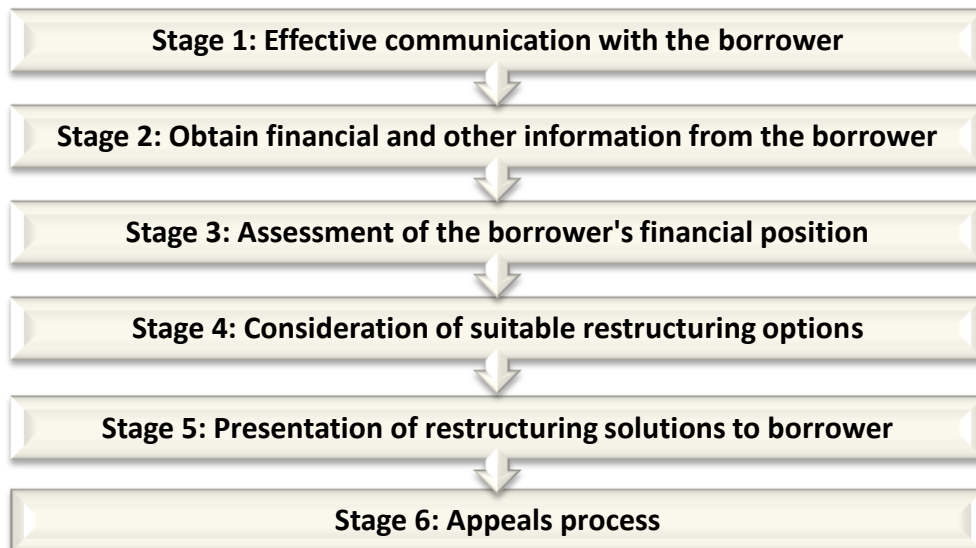
Credit institutions shall abide by the following general obligations and responsibilities for arrears management and debt restructuring. They shall:

- (a) Fully adhere to the general objectives detailed in point 2 above;
- (b) Apply these principles in conjunction with sound banking practices and in compliance with all relevant laws and regulations in the Republic which govern them;
- (c) Behave in a professional, fair, transparent and consistent manner when dealing with borrowers;
- (d) Ensure that borrowers understand their rights and obligations and are also informed of the rights and responsibilities of credit institutions as they derive from their contractual relationship (Part II provides direction on this matter to credit institutions and a list of obligations and rights of borrowers that shall be clearly laid down in the agreement);
- (e) Disclose complete and accurate information to the borrower regarding both the borrower's specific situation and the general procedures followed by the Credit Institution;
- (f) Respond in a proactive and timely manner to pre-arrears and arrears situations;
- (g) Consider each case independently and define solutions based on its specific particularities (i.e. a case-by-case treatment);
- (h) Avoid placing undue pressure and act objectively in the best interests of the borrower;
- (i) Implement appropriate measures to prevent biases or conflicts of interest when negotiating with the borrower;
- (j) Provide the borrower with truthful and accurate explanation regarding the range of solutions available and their respective implications;
- (k) Communicate clearly and ensure that the message is adapted to its audience;
- (l) Ensure that the borrower understands and accepts all terms and conditions proposed;
- (m) Respect the right of privacy of the borrower;

- (n) Strive to develop sustainable and long-term solutions to arrears management;
- (o) Inform the borrowers of their particular rights and obligations when in arrears;
- (p) Accurately document all decisions and clearly communicate them to the borrowers;
- (q) Implement all necessary operational and organisational tools, processes and control mechanisms to ensure compliance with this Code;
- (r) Impose on the borrower only costs authorised and no greater than the costs incurred as a result of the arrears and/or the restructuring;
- (s) Provide appropriate training to staff members on effective management of arrears, pre-arrears and borrowers in financial difficulties;
- (t) Ensure that all staff members are aware of and comply with the relevant policies and procedures;
- (u) Ensure that any external third parties, hired consultants and providers of outsourced services duly respect the provision of this Code;
- (v) Remain proactive and take all necessary steps to effectively and efficiently address non-cooperative borrowers and unsustainable debts;
- (w) Proactively engage at an industry level, where applicable, to solve industry-wide arrears issues; and
- (x) Address complaints and rectify inappropriate behaviors in a timely and objective manner.

4. GENERAL APPROACH TO RESTRUCTURING:

Credit institutions shall apply the following stages when dealing with borrowers in arrears and in cases of pre-arrears:



5. COMMUNICATION WITH THE BORROWER:

(1) General principles of communication with the borrower:

Credit institutions, as a minimum, shall:

- i. Implement a standardised and uniform communication approach, based on the established up-to-date policies and procedures;
- ii. Develop pre-defined messages which are relevant, clear, informative, and can be easily adapted for the target audience, depending on their stage in the arrears process;
- iii. Ensure that all communication with the borrower is performed in a proactive and timely manner;
- iv. Ensure that all communication is conducted in an appropriate manner and in a polite way;
- v. Behave in a cooperative and collaborative manner with the borrower and invite them to discuss further over the phone or in person;
- vi. Maintain frequency of communications to an appropriate level, proportionate and not excessive in accordance with the credit institutions' approved policy;
- vii. Only contact the borrower at reasonable times, preferably during business hours, unless agreed otherwise;
- viii. Ensure compliance with privacy and confidentiality principles;
- ix. Inform the borrower, in writing, of the appointment of any intermediate or third parties representing the credit institution and detail the extent of the mandate;
- x. Provide adequate training to responsible officers to ensure that all interactions with the borrowers are to a high professional standard;
- xi. Provide borrowers with dedicated points of contact that offer specialised advice related to arrears;
- xii. Make available all relevant resources to both the borrower and the staff, such as:
  - A dedicated section on the website for arrears, which is easily and clearly accessible and provides all relevant information of the borrowers' rights and obligations and the procedures when facing pre-arrears and arrears,
  - Printed brochures, booklets and/or leaflets,
  - Support of relevant banking industry initiatives aimed at educating the public on arrears and the importance of pro-active actions;
- xiii. Inform the borrower of any intermediation service within the credit institution detailing the rights of the borrower and detailing the procedures to file a complaint;

(2) Stages of communication:

Stages of communication with the borrower are as follows:

(a) Pre-arrears communication

Pre-arrears is defined as the situation where there is a material risk of the borrower going into financial difficulties creating arrears in the short to medium term (due to, for example, change in employment status, reduction of salaries, industry problems, etc). Credit institutions may be made aware of the situation either by the borrower or as a result of their own assessment and controls.

Due to the fact that no actual arrears have occurred, the communication with the borrower in pre-

arrears shall be consultative and focused on identifying relevant preventive measures. Communication shall be performed via phone or in person, as deemed appropriate.

Follow-up communication, via phone or in person, shall be performed only if the borrower is receptive to assistance in order to respect the rights of the borrower as well as to promote cooperation in the future. Conversely follow up communication may be in writing.

(b) Early arrears communication:

Early arrears occur when a borrower has not made a full repayment or only makes a partial repayment on the credit facility, up to 30 days following the contracted due date of the repayment program.

Communication with the borrower on early arrears, shall be done by phone, within the first 20 days, following similar principles as for pre-arrears, and be discrete and consultative in nature. The borrower may also be invited to a meeting. It is essential that communication is performed immediately as the arrears situation occurs or as soon as other warning indicators are observed.

When arrears reach 31 days and the borrower does not respond to an oral arrangement, the credit institution shall notify both the borrower and the guarantor(s) in writing, unless contractual obligations prevent the provision of certain information to the guarantor(s).

Content of notification:

The content of this notification shall include, as a minimum, the following information:

- Information on arrears, including the date of the start of the arrears, the number of loan instalments in arrears, and the amount of payment shortfall due to date;
- The details of any potential fees, charges and/or penalties/interest related to the arrears by reference to the policy of the credit institution as published on its website;
- The borrower's obligations and liabilities, and the potential impact of arrears (i.e. further costs, impact on the borrower's credit rating, the reporting of information on arrears in the central credit registry, possibility of collateral loss, etc).
- The importance of collaboration between the borrower and the credit institution and the invitation to set an appointment to consider the reassessment of the financial circumstances of the borrower and the potential restructuring of the borrower's credit facilities.
- Full contact details of the employee the borrower can contact.

The written notification shall be accompanied by a phone call to ensure receipt of the notification to remind the borrower of the payment obligations, to enquire on the expected payment, and schedule a face-to-face meeting if deemed necessary.

The credit institution shall agree with the borrower on the date of a follow up communication for close monitoring of the situation. If the borrower does not respond to the notification or has not agreed with the arrangement within a maximum period of 1 month, a further notification shall be sent in an updated manner.

(c) Mid arrears communication

When arrears have reached 60 days past due and no workout arrangement is made or is in progress, the credit institution shall send another notification in writing, to the borrower and to the guarantors,

setting out at least the following:

- Updated information on arrears;
- Any applicable fees, charges and penalties/interest, if relevant;
- The legal obligations of the borrower to comply with the contractual obligations of the credit facilities;
- The right of the credit institution to initiate legal proceedings in case of further non-compliance;
- An estimation of the potential costs to the borrower of such proceedings;
- A call by the credit institution to the borrower to contact the credit institution within 7 days and to submit financial information within a further period of one month in order for the credit institution to proceed with a re-assessment of the financial situation and to develop a restructuring solution for the borrower's particular circumstances.

(d) Serious arrears communication

When arrears have reached 90 days past due and no workout arrangement is made or is in progress, the credit institution shall send a warning letter to the borrower and a copy to the guarantor(s), setting out at least the following:

- Informing the borrower that if he does not act upon the letter within 20 business days, he will be classified as non-cooperative;
- Outline the specific actions that the borrower must take within 20 business days in order to avoid being classified as non-cooperative;
- Outline the implications of being non-cooperative, including the potential for the initiation of legal proceedings by the credit institution and the potential that the borrower will fall outside the scope of this Code.

(3) Non-cooperative borrower:

A borrower is defined as non-cooperative:

(a) When any of the following conditions (i) to (iii) apply:

(i) the borrower does not fully and honestly disclose to the credit institution relevant and material information that would have a significant impact on the assessment of the borrower's repayment ability; or

(ii) the borrower does not provide the relevant information and/or documentation as requested by the credit institution for the assessment of the financial position of the borrower within the time-frame prescribed in point 6 below; or

(iii) 90 days elapse:

- where the borrower has failed to meet his contractual repayments in full and has not entered into a workout arrangement, as provided for in this Code or;
- where the borrower fails to meet the new contractual repayment schedule as provided for in a restructuring solution arrived at in accordance with this Code, and
- during which the borrower does not contact or does not respond to contacts and notifications

initiated by the credit institution or the borrower does not take collaborative steps with the credit institution to develop a restructuring plan;

and

(b) When a warning letter has been sent to the borrower, in accordance with the provisions of 5(2)(d), and the borrower did not carry out the actions specified in that letter.

In the case of a non-cooperative borrower whose facilities continue to present arrears or excesses for over 90 days, the credit institution may initiate legal proceedings. For this purpose, the credit institutions shall notify the borrower in writing of the following:

(i) that the borrower is classified as non-cooperative;

(ii) the details on the timeframe within which the credit institution will begin legal proceedings;

(iii) an estimation of the potential costs of such proceedings;

(i) the foreseen impact on the borrower's credit rating;

(v) the risk of repossession and disposal by the credit institution of collateral pledged in favour of the credit institution by the borrower and/or the guarantors for the credit facilities in arrears;

(vi) that the borrower and guarantors remain liable of any amount of the debt remaining after the repossession and disposal of the collateral, including any interest, charges and related selling costs; and

(vii) any other information relevant to the specific situation.

(viii) the credit institution offers a final opportunity to the borrower to be reclassified as cooperative within a reasonable defined timeframe.

## 6. FINANCIAL INFORMATION:

Credit institutions have a right and an obligation to have access to adequate, complete and accurate information of the borrower and, where appropriate, the guarantors' entire financial circumstances in order to perform an assessment of their financial situation and to develop appropriate restructuring solutions.

The credit institution shall explain to the borrower and guarantors that their timely submission of complete and accurate financial information ensures the development of a workout solution that is within their repayment ability and, therefore, the risk of new arrears and/or excesses is significantly reduced.

Credit institutions shall set a fair and reasonable timeframe for the submission of relevant financial information which timeframe is commensurate with the type of information required for the assessment of the financial situation of the borrower and of the guarantor, where the credit institution relies on the guarantors as an additional source of repayment.

Credit institutions shall clearly inform the borrower of the necessary information and the corresponding supporting evidence required. This requirement shall be communicated early in the process. The



information shall contain, at least, the following:

- for the borrowers and guarantors, who are natural persons the Personal Financial Statement (PFS) which is included as Part III of this Code, duly completed and signed and a signed declaration by the borrower to the credit institution on the completeness and accuracy of the data in the PFS;
- for legal persons, the audited financial statements or management accounts if the audited financial statements are unavailable.
- any supporting documentation to corroborate the financial and other information provided; and
- any additional required information for the purposes of restructuring.

## 7. ASSESSMENT:

### (1) Assessment of financial position:

(a) It is imperative that the credit institution adequately assesses the financial position of the borrower and, where relevant, the guarantors, in order to ensure the identification of suitable restructuring options and the implementation of the most adequate and sustainable restructuring solutions.

The assessment must be based on the financial information submitted by the borrower but must also be enhanced by additional information that is provided by the borrower during the conduct of the assessment by the credit institution and relates but is not restricted to the following:

- i. borrower's particular situation;
- ii. borrower's financial strength;
- iii. overall level and the nature of the borrower's indebtedness;
- iv. borrower's current repayment capacity;
- v. borrower's credit and payment history, including past behaviors;
- vi. borrower's forecasted or projected payment abilities; and
- vii. the type and categories of credit facilities of the borrower.

The assessment shall follow clear and transparent processes and procedures.

Credit institutions shall exert every reasonable effort to collaborate with the borrower throughout the assessment process to accurately determine the repayment capacity of the borrower and thereby arrive at an adequate and sustainable solution that is acceptable to both parties.

Credit institutions shall carry out its assessment taking into account both historical data and realistic forecasts. To this end, the credit institution shall explain to the borrower the merits and the necessity to remain cooperative and to provide in a timely manner any further information necessary to enable the credit institution to assess and corroborate the borrower's income and expenditure forecasts and net assets.

In cases where, the borrower has different categories of credit facilities (e.g. SME loan, housing loan,

CRE loan, etc), the credit institution shall look at ‘unbundling’ the various credit facilities, constituent collateral and earnings streams. In its assessment the credit institution shall look at these categories separately as well as in total to determine the most appropriate overall restructuring solution(s).

(2) Collateral:

Considering the importance of the collateral’s value as a secondary repayment source and the negative impact that the economic environment might have on the value of certain categories of credit facilities, it is essential that credit institutions perform a thorough assessment of collateral.

Credit institutions shall perform for an independent professional valuation for the estimation of the open market value and the forced sales value of the collateral in order to accurately determine the value of collateral as a secondary form of repayment and, thus, formulate adequate and sustainable solutions.

Credit institutions may, on a case-by-case basis, request borrowers to consider including unencumbered assets as additional collateral to facilitate the restructuring process. This is particularly relevant for unsecured loans. The credit institution shall cooperate with the borrower in order to determine mutually agreeable terms to allow converting unsecured facilities into secured ones and thereby facilitate the restructuring process.

(3) Guarantees

Credit institutions shall assess the viability of the guarantors and the guarantees provided on a similar basis as its assessment of the viability of the borrower. This includes the evaluation of the guarantor’s commitment and willingness to collaborate.

Credit institutions shall encourage borrowers to take all necessary steps to facilitate communication and collaboration between the guarantor and the credit institution in order to avoid complicating and/or slowing down the process.

(4) Assessment of restructuring options:

Credit institutions shall explore all possible debt restructuring options that are available in order to decide the most suitable options for the particular situation of the borrower. During the evaluation of the different options vis-a-vis the financial position of the borrower, the credit institution may consider it necessary to contact the borrower in order to obtain further information that it may deem relevant. The credit institution shall explain to borrowers that it is vital for the achievement of sustainable restructuring solutions for the mutual benefit of the credit institution and the borrower, and therefore they must submit all necessary information in a timely manner and to engage in a constructive exchange of information and ideas during the restructuring process.

Credit institutions shall thoroughly document their assessment, inter alia, with a view of providing the borrower with all necessary justification during the presentation of the restructuring solutions.

**8. RESTRUCTURING SOLUTIONS:**

(1) General principles:

Credit institutions shall propose sustainable restructuring solutions to borrowers that are experiencing financial difficulties.

Credit institutions shall consider the sustainability of the solution as being a key factor of importance for the whole process especially with a view to avoiding legal proceedings and realisation of collateral. To this end, the credit institution shall ensure that the borrower provides the credit institution with all relevant financial information, including details of credit facilities to other credit institutions.

In cases where there are multiple creditors, they shall collaborate together, irrespective of the performance exhibited by the accounts of the borrower or the pledge of collateral in each credit institution. The ultimate aim is to arrive at sustainable restructuring solutions that are feasible on the basis of the overall position of the borrower and safeguard the position of all credit institutions.

Credit institutions shall clearly explain to the borrower that restructuring is voluntary in nature and that the borrower's consent is required for any amendment to existing terms and conditions.

The credit institutions shall carry out the process of identifying the relevant restructuring options in a transparent manner and with close collaboration with the borrower.

Credit institutions shall provide the borrower with a series of available restructuring solutions, out of the range of options assessed, as well as the factual explanation and implications of each proposal. The credit institution shall involve the borrower, as much as possible, in defining the most appropriate solution to the particular situation.

Credit institutions shall demonstrate integrity and prevent undertaking any actions that might be detrimental to the position of the borrower. To this end credit institutions:

- shall give advice and guidance to the borrower that is impartial; and
- shall not propose a restructuring that will generate a financial disadvantage for the borrower.

(2) Communication of the decision:

(a) Positive decision:

Following the communication with the borrower regarding the restructuring solutions, the credit institution shall communicate to the borrower the final decision within 10 working days in an arranged meeting, whereby a "letter of offer" is handed to him/her, with the participation of the guarantor, where relevant, or by letter of offer where a meeting is not feasible. In the letter of offer, the credit institution shall provide the borrower, and, where relevant, the guarantor, with detailed and clear explanation of the decision, the rationales and arguments, and the exact terms and conditions under which the decision has been approved. Specifically, the letter of offer shall include:

- a clear explanation of the decision and what the proposed solution entails;
- the key arguments and rationales of the decision;
- the new terms and conditions subject to the approval;
- an analysis of all extra costs, if any, to be paid by the borrower as a result of the proposed restructuring; and
- the next steps in order for the borrower to officially accept the offer and to legalise amendments to the existing contract.

- the procedure that must be followed in case the proposal of the credit institution is refused ie
  - (a) the borrower must notify the credit institution in writing within 20 working days from the date of receipt of the letter of offer,
  - (b) the credit institution shall respond to the borrower, in writing, within 5 working days of the date of receipt of the refusal, expressing its willingness to convene, again, in order to assess other options, if possible, or explaining that this is not possible and setting out the implications for the borrower of refusing the proposal, and shall, at a minimum, explain that:
- the borrower has the right to forward an appeal to the Appeals Committee of the credit institution within one month from the date of receipt of the letter of offer;
- the credit institution has the right to call in the accounts and to initiate a legal procedure after the completion of the appeals process.
- the potential legal implications, e.g. the estimated additional legal costs the borrower may have to incur, the right of the credit institution to repossess or realise the mortgaged property and any other collateral, etc.

ACIs shall be receptive to comments and requests by the borrowers and, in case of involuntary errors during the assessment by the ACIs due to errors in the facts or assumptions, the ACI shall revise its assessment and present a new revised restructuring solution.

(b) Negative decision:

Credit institutions shall avoid, as far as possible, taking legal recourse and shall pursue with the borrower all available out-of-court options.

In the case where after a thorough assessment and diligent collaboration with the borrower, the credit institution arrives in a negative decision (i.e. it is assessed that the borrower will not be in a position to comply with any one of the restructuring options examined), the credit institution shall communicate this decision to the borrower within 10 working days from the last day of communication with the borrower, via a meeting, or by a letter, where a meeting cannot be mutually agreed in a timely manner. The credit institution shall provide a detailed explanation to the borrower to support its negative decision.

The credit institution shall duly document the negative decision, including all corroborative assessment and justifications leading to this conclusion and shall send to the borrower an official written communication of the negative decision, which, as a minimum, includes the following:

- (a) a clear explanation of the decision;
- (b) the key arguments and rationale of the decision;
- (c) the procedure the borrower is entitled to follow if the borrower wants to appeal the decision, and in particular that the borrower has the right of reassessment by the Appeals Committee of the credit institution within one month from date of receipt of the letter;
- (d) the right of the credit institution to call in the accounts and to initiate a legal procedure after the

lapse of the appeals process.

## 9. APPEALS PROCESS:

### (1) General principles for internal appeals within the credit institution:

Credit institutions shall establish an Appeals Committee that has sufficient resources and is independent of the credit granting, credit approval, credit control and risk management functions in order to deal with all appeals regarding restructurings in an effective, efficient, timely and impartial manner.

Credit institutions shall make the processes and procedures for making appeals, claims and complaints readily and easily accessible to all borrowers. The appeals process shall also be clearly and transparently laid down in a dedicated section on the credit institution's website.

### (2) Written procedure for the credit institution's appeals process:

Credit institutions shall clearly define the appeals process within its relevant policies and procedures and shall properly disclose it to all new and existing borrowers.

The content of the appeals process that shall be communicated to the borrower shall include, as a minimum, the following:

- The point of contact at the credit institution that deals with appeals, claims and complaints;
- Clarification that only written applications are accepted;
- Standardised documentation provided by the credit institution that may be used by the borrower;
- Where and how to submit the application, i.e. by post, by e-mail, by hand, etc; and
- The names of the persons at the credit institution the borrower may communicate with until the Appeals Committee decides on the appeal.

The content of the appeals procedure that shall be followed by the credit institution shall include, at least, the following:

- The detailed explanation of the review procedure to be performed by the Appeals Committee;
- The supportive documentation required for the review;
- The maximum timeframe for providing the borrower with:
  - (i) An official acknowledgement of the appeal, which may not be later than 15 business days from the date of receipt of the complaint; and
  - (ii) An official decision regarding the appeal, which may not be more than 3 months from date of receipt of the appeal.

## 10. DEMONSTRATING COMPLIANCE:

Credit institutions shall be able to demonstrate to the CBC their full compliance with the provisions of this Code.

To this end, credit institutions shall:

(1) Ensure the accessibility, quality and completeness of all relevant information;

(2) Maintain a complete record of:

- All communications with the borrowers with regards to arrears and debt restructuring;
- All information obtained from the borrower;
- All steps taken during the restructuring process;
- All assessments undertaken;
- All official approvals granted; and
- Any other related legal documentation

(3) Maintain a record of all relevant documentation.

(4) Retain all records demonstrating compliance with this Code for a minimum period of 6 years and all records of borrowers for a minimum of 6 years after the termination date of the relationship with the borrower.

## Part II

### **TRANSPARENCY OF BORROWERS' AND GUARANTORS' RIGHTS AND RESPONSIBILITIES**

1. Credit institutions shall provide borrowers with a document that lays down the respective rights and responsibilities of the borrowers and the credit institutions whereupon the borrowers sign that they have received adequate and full explanation thereof. As a minimum, this document shall include the following with respect to the responsibilities of borrowers:

- i. To act in respect of the requirements of the terms of the credit facilities' agreements;
- ii. To fully collaborate with the Credit Institution in order to achieve a sustainable restructuring solution;
- iii. To demonstrate integrity, honesty and transparency and always act in good faith;
- iv. To remain proactive in contacting their Credit Institutions when foreseeing or facing difficulties in meeting their obligations;
- v. To timely provide full, complete, up-to-date and accurate financial information and documentation of their financial circumstances (e.g. earning capacity and net worth) as and when required, including supporting income, expenditure and other financial data;
- vi. To disclose all relevant information, including details of credit facilities to other credit institutions, in order to assess the global financial position and to eventually reach a consensual agreement between all creditors and the borrower;
- vii. To be cooperative in providing any further relevant supporting documentation required by the credit institution;
- viii. To produce a signed Personal Financial Statement (PFS) (for natural persons only), in accordance with Part III below;
- ix. To act to resolve arrears and other defaults in timely manner;
- x. To declare that they understand that the best solutions can be arrived at after their full cooperation and collaboration with the credit institution;
- xi. To be receptive to receiving restructuring proposals;
- xii. To declare that they understand that failure to comply with the repayment program and to provide reliable information may halt the cooperative process and potentially lead to legal proceedings; and
- xiii. To not take any action that might adversely affect the position of the credit institution and its collateral.

2. Credit institutions shall provide guarantors with a document laying down their rights and responsibilities, which, inter alia, include the timely submission of financial information required by the credit institution and acknowledgment of the Guarantors' obligations as stipulated under the Protection of a Specific Group of Guarantors Law of 2003, as subsequently amended or replaced.

3. Credit institutions shall respect the borrowers' rights and they shall:

(a) When proposing the available restructuring options:

- (i) assist the borrower to understand the different options available;
- (ii) give time to the borrower to perform their own estimate of the implications of each available option in order to make an informed proposal to the credit institution on which option to develop; and
- (iii) advise the borrower of their right to seek the counsel of an independent professional to support their decision making, if deemed necessary.

(b) When proposing of restructuring solutions:

- (i) ensure that the proposed solutions are sustainable and the borrower will continue to be viable;
- (ii) discuss the proposed solutions with and offer clarifications to the borrower in order to help them form an informed and educated decision; and
- (iii) inform the borrower of their right to reply to the credit institution within 7 days of which of the solutions proposed, the borrower regards as the most suitable and sustainable in accordance with his / her particular financial situation or that none of the proposed solutions are acceptable and offer an alternative proposal to the credit institution.



**Part III**

**PERSONAL FINANCIAL STATEMENT (PFS)**

See: Tables A – F attached on a separate Excel file.